रजिस्ट्री सं० डी० एल-33004/92 Registered No. DL-33004/92

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग II—खण्ड 1
PART II—Section 1
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं० 38] नई दिल्ली, शुक्रवार, जुलाई 17, 1992/आषाढ़ 26, 1914
No. 38] NEW DELHI, FRIDAY, JULY 17, 1992/ASADHA 26, 1914

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 17th July, 1992/Asadha 26, 1914 (Saka)

The following President's Act is published for general information:—

THE JAMMU AND KASHMIR CANCELLATION OF ORDERS AND ANNULMENT OF INSTRUMENTS ACT, 1992

No. 6 OF 1992

Enacted by the President in the Forty-third Year of the Republic of India.

An Act to provide for cancellation of Government Order No. 371-UD of 1989, dated 21-11-1989 and the letters/orders of allotments and annulment of certain instruments executed between the allottees and the Jammu Development Authority in furtherance of the said Government Order and for matters connected therewith or incidental thereto.

WHEREAS the Roop Nagar Housing Colony in Jammu is being developed by the Jammu Development Authority and as per the decision of the Jammu Development Authority, forty-nine plots in Sector I were reserved for being auctioned after the Colony is fully developed;

AND WHEREAS the Government *vide* its Order No. 371-UD of 1989 dated 21-11-1989 modified the existing plan and carved out seventy-four plots

out of the said forty-nine plots and also provided for allotment of the newly carved plots, on modified terms and conditions in favour of allottees;

AND WHEREAS, in furtherance of the said Government Order, certain instruments have been executed by some of the allottees with the Jammu Development Authority;

AND WHEREAS the modification of the existing plan as well as the terms and conditions of allotment of these plots is detrimental to public interest and it is in public interest to cancel the Government Order No. 371-UD of 1989 dated 21-11-1989 and the letters/orders of allotment and also to annual the instruments executed between the allottees and the Jammu Development Authority in furtherance of the said Government Order;

NOW, THEREFORE, in exercise of the powers conferred by section 3 of the Jammu and Kashmir State Legislature (Delegation of Powers) Act, 1992, the President is pleased to enact as follows:— 21 of 1992.

Short title and commencement.

1. (*1*) This Act may be called the Jammu and Kashmir Cancellation of Orders and Annulment of Instruments Act, 1992.

(*2*) It shall come into force at once.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "allottee" means such persons in whose favour allotment of plot has been made in Sector I of Roop Nagar Housing Colony, Jammu by or under or in pursuance of Government Order No. 371-UD of 1989 dated 21-11-1989;

(*b*) "authority" means the Jammu Development Authority constituted under section 3 of the Jammu and Kashmir Development Act, 1970;

(*c*) "instrument" includes any agreement, lease, deed or contract executed between the allottee and the authority;

(*d*) "property" means plot of land allotted to any person in Roop Nagar Housing Colony, Jammu by or under or in furtherance of Government Order No. 371-UD of 1989 dated 21-11-1989.

Cancellation of certain orders and annulment of certain instruments.

3. Notwithstanding anything to the contrary contained in any law, rule, instrument, agreement or contract or in any judgement, decree or order of any court,—

(*a*) the Government Order No. 371-UD of 1989 dated 21-11-1989 and the letters of allotment or orders issued in furtherance thereto shall, from the date of commencement of this Act, stand cancelled;

(*b*) any instrument executed between the allottee and the authority in furtherance of Government Order No. 371-UD of 1989 dated 21-11-1989 shall, from the date of commencement of this Act, stand annulled and any interest or right which might have accrued to any person under any such instrument shall stand extinguished.

Transfer of and vesting of interest in the property.

4. Notwithstanding anything to the contrary contained in any law, rule, agreement, instrument, lease deed or contract or in any judgement, decree or order of any court—

(*a*) the interests or rights of the allottee or any person in the property, which have been extinguished under section 3, shall, by virtue of this Act, stand transferred to and vest in the authority;

(*b*) the property shall, by virtue of such vesting as aforesaid, become free from all the encumbrances and obligations.

Payment and determination of amount.

5. The authority shall pay to each allottee—

(*a*) a sum equivalent to the amount of premium, if any, deposited by an allottee with the authority;

(*b*) interest at the rate of 10 per cent per annum from the date of deposit of premium till its refund by the authority;

(*c*) actual expenditure incurred by the allottee in the execution and registration of any instrument with the authority; and

(*d*) any other cost, which in the opinion of the authority has been incurred by the allottee but is not covered by the above provisions.

Appeal.

6. (*1*) An appeal shall lie to the Jammu and Kashmir Special Tribunal from any final order passed by the authority in respect of the grant of amount under section 5.

(*2*) Every appeal under this section shall be preferred within a period of thirty days from the date of the order.

Penalty.

7. (*1*) Notwithstanding anything to the contrary contained in any other law for the time being in force, no person, whose interest and rights have been extinguished under section 3, shall enter or occupy the property.

(*2*) Any person who contravenes the provisions of sub-section (*1*) shall be punished with imprisonment for a term which may extend to two years or with fine which may extend to ten thousand rupees or with both.

Eligibility for fresh allotment.

8. Nothing contained in this Act shall debar any person, whose allotment of property has been cancelled under section 3, from applying and being considered for allotment of a plot for residential purpose by the authority in accordance with the prescribed eligibility.

Governor's Act No. V of 1990.

Repeal and saving.

9. (*1*) The Jammu and Kashmir Cancellation of Orders and Annulment of Instruments Act, 1992 is hereby repealed.

(*2*) Notwithstanding such repeal, anything done or any action taken under the Jammu and Kashmir Cancellation of Orders and Annulment of Instruments Act, 1990 shall be deemed to have been done or taken under the corresponding provision of this Act.

R. VENKATARAMAN,

President.

K. L. MOHANPURIA,

Secy. to the Govt. of India.

Reasons for the enactment

The Jammu and Kashmir Cancellation of Orders and Annulment of Instruments Act, 1990 was enacted by the Governor of Jammu and Kashmir in exercise of the powers conferred on him by section 92 of the Constitution of Jammu and Kashmir. Since in terms of section 92, enactments made by the Governor during Governor's rule are temporary in nature, the Jammu and Kashmir Cancellation of Orders and Annulment of Instruments Act, 1990 will cease to have effect with effect from the 18th day of July, 1992. The Government of Jammu and Kashmir are of the view that the validity of the provisions of the Jammu and Kashmir Cancellation of Orders and Annulment of Instruments Act, 1990 requires to be continued and should be extended by an appropriate legislation since the State is presently under President's rule. Parliament has, under article 357(1)(a) of the Constitution, conferred on the President the power of the Legislature of the State of Jammu and Kashmir to make law *vide* the Jammu and Kashmir State Legislature (Delegation of Powers) Act, 1992.

2. Under the proviso to sub-section (*2*) of section 3 of the Jammu and Kashmir State Legislature (Delegation of Powers) Act, 1992, the President shall, before enacting any President's Act, whenever he considers it practicable to do so, consult a Committee sonstituted for the purpose, consisting of members of both Houses of Parliament. In view of the urgency of the matter, it is not practicable to consult the Committee. This Bill is, accordingly, being enacted without reference to the Committee.

R. K. BHARGAVA,

Secretary to the Government of India,

Ministry of Urban Development.

PRINTED BY THE MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI
AND PUBLISHED BY THE CONTROLLER OF PUBLICATIONS, DELHI, 1992.